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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,241	12/29/2000	Tateo Uegaki	892_013	8615
25191	7590	12/01/2004	EXAMINER	
BURR & BROWN PO BOX 7068 SYRACUSE, NY 13261-7068			FISHER, MICHAEL J	
			ART UNIT	PAPER NUMBER

3629

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/753,241

Applicant(s)

UEGAKI, TATEO

Examiner

Michael J Fisher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

The request filed on 3/19/04 for a Request for Continued Examination (RCE) based on parent Application No. 09/753,241 is acceptable and an RCE has been established. An action on the RCE follows.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malin et al. US 2002/007289 (Malin).

Malin discloses a system with a means for displaying an image (the monitor of the computer), repair-estimation time input (265), repair reserved data storage means (database 250), repair-reservable day/time data display means (the monitor of the computer), repair reservation determining means (resource queues 270), means for

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calculating a repair-reservable day/time (fig 1), the calculating means would be visible on the monitor, the system uses different criteria to calculate repair estimation time (265,270,275 and 280), the activities of a plurality of shops and bays is controlled and displayed (220), it would be inherent that if there was a problem the repair-reservation completion day/time could be changed, further, the actual time consumed on a task is recorded (page 5, paragraph 0050, line 12), while not discussed, it would be inherent that any time axis used would be universal throughout the system. Further, it would be obvious to use repair times to schedule repairs. Auto repairs are based on standard times. Specifically, replacing a specific part is charged according to a standard time taken, and not how long it takes a particular mechanic. For example, replacing an alternator would be charged at 1 hour no matter how long it takes the mechanic to do it. Therefore, it would be obvious to one of ordinary skill in the art to use these times to schedule reservations so that the shop works at peak efficiency and there is no 'off' time for mechanics unnecessarily.

### ***Response to Arguments***

Applicant's arguments filed 8/31/04 have been fully considered but they are not persuasive. The attached web page advertising a Nichols' Chilton Labor Guide, while not used as prior art, does teach that it is well known for mechanics to charge an hourly rate for a specific job that might not reflect the actual time spent on the repairs. Specifically, the sentence starting in line 2 of the text, "Packed will all new labor time estimates, the 2003 edition (1981-2003) has been created to realistically reflect today's

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repair industry standards.", thus showing that there is an industry standard for repair times. As to applicant's statement that waiting times are not considered by Malin, the examiner's position is not that the waiting times are considered specifically, merely that the result of the Malin reference would be this. The applicant should note that, from the language of the claim, the claims do not positively claim this, the language merely claims it as an intended use. It is the examiner's position that it is very well known in the art to maximize employee's work schedules. Employees are paid whether they are working or not and therefore, it is very well known for employers to maximize employee work so as to avoid paying for idle time. The examiner's position is not, "...merely that workers find a way to charge clients for the time they are not actually working...", but that the prior art meets the limitations as claimed by applicant.

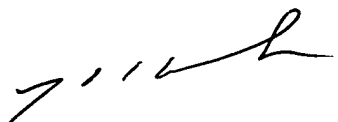
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Fisher whose telephone number is 703-306-5993. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MF   
11/29/04

  
JOHN G. WEISS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600